

Open 21, Inc.

On-Line Public Educational Network for the 21st Century, Inc.

1701 K Street, N.W.
Suite 800
Washington, DC 20006
202-835-8979

July 17, 2000

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
TW-A325
Washington, DC 20554

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Dear Ms. Salas:

Enclosed please find an original and four copies of a Petition for Rule Making to amend the Television Table of Allotments to substitute DTV channel 34 at Fort Worth, Texas for NTSC channel 31 at Fort Worth, Texas. Open 21, Inc. is an applicant for this facility (BPTTL- 19960920WF) and this petition is filed in order to break mutual exclusivity between this application and a DTV television facility.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Thomas Cohen
President

Lr/tv/open21/fort worth dtv 34 cover letter

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In Re:)
)
Amendment of Section 73.606(b))
of the Commission's Rules, the)
Table of Allotments for Analog)
Television Broadcast Stations)
(Fort Worth, Texas))

RM-_____

To: Chief, Allocations Branch
Mass Media Bureau

PETITION FOR RULE MAKING

On-Line Public Educational Network for the 21st Century, Inc. ("Open21")
applicant for a new non-commercial full power analog television station on Channel 31 at Fort
Worth, Texas (the "Applicant"),¹ pursuant to Section 1.401 of the Commission's rules, 47 C.F.R. §
1.401, and the Commission's Public Notices regarding a window for filing petitions for rule making
to change analog television allotments that may conflict with digital television ("DTV") station
allotments, authorizations, applications, or rule making proposals,² hereby petition the Commission
to amend the Table of Allotments for analog television broadcast stations to substitute DTV
Channel 34 for NTSC Channel 31 at Fort Worth, Texas, and to authorize the Applicant to amend its
pending application for Channel 31 to specify operation as a DTV facility on Channel 34 without

¹ The Applicant is On-Line Public Educational Network for the 21st Century, Inc. ("Open21") (File No. BPET-19960920WF).

² See Public Notice, Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations, DA 99-2605 (released November 22, 1999) (the "Amendment Public Notice"); see also, Public Notice, Window Filing Opportunity For Certain Pending Applications and Allotment Petitions for New Analog TV Stations Extended to July 15, 2000, DA 00-536 (released March 9, 2000).

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subjecting its application to competing applications. In support of this petition for rule making, the Applicant submits the following

1. The Applicant has tendered for filing and has pending an application for a construction permit for a new non-commercial analog television station on Channel 31, Fort Worth, Texas. Since the reference coordinates for the proposed transmitter site are within the minimum co-channel separation distance for Zone II of 174.5 miles (or 280.8 kilometers) from Fort Worth, Texas, one of the 30 designated television markets subject to the Commission's freeze in the advanced television ("ATV") proceeding (i.e., an "ATV freeze zone"),³ the Applicant specified a transmitter site outside of, and/or requested a waiver of, the ATV freeze in their respective applications.

2. In the DTV proceeding, the Commission stated that it would open a filing window, announced by Public Notice, during which pending analog full power television applications in an ATV freeze zone that would conflict with a DTV station allotment, authorization, application or rule making proposal could be amended to eliminate the DTV conflict, or could file a petition for rule making for an alternate channel below Channel 60 if necessary to avoid the DTV conflict.⁴ The Amendment Public Notice implements this Commission decision, permitting ATV freeze area applicants to file a petition for rule making to substitute a new channel below Channel 60.⁵

³ See Advanced Television Systems, Mimeo No. 4074, 52 Fed. Reg. 28346 (1987).

⁴ See Advanced Television Systems and Their Impact on the Existing Television Broadcast Service, MM Docket No. 87-268, Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, FCC 98-315, 13 FCC Rcd 23992, 14 CR 674 at ¶¶ 40-42 (1998) (the "DTV Second MO&O").

⁵ See Amendment Public Notice at 4-6.

3. The Commission stated that it would require ATV freeze applicants to demonstrate that interference to a DTV station allotment, authorization, application or rule making proposal would be caused if the proposed channel substitution is not made.⁶ As demonstrated by the attached Engineering Report,⁷ the Applicant's analog Channel 31 application proposal would cause interference to the co-channel DTV Channel 31 allotment for KXFT at Longview, Texas; KUVN, Channel 23 at Garland, Texas; and co-channel NTSC LPTV station, KUVN-LP, Channel 31 at Fort Worth, Texas, which has applied for Class A certification.⁸ Moreover, there is not an alternative channel available for use as an alternative NTSC allotment, therefore, the Applicant has petitioned to specify Channel 34 at Fort Worth, Texas, as a DTV allotment.

4. The Commission also stated that applicants with pending full power analog applications subject to the ATV must propose a single alternate channel below Channel 60.⁹

5. As required by the Amendment Public Notice and Sections 73.610 and 73.623(c) of the Commission's rules, 47 C.F.R. §§ 73.610 and 73.623(c),¹⁰ the Engineering Report demonstrates that the proposed allotment of DTV Channel 34 to Fort Worth, Texas, meets all legal and technical requirements, including the minimum distance separation requirement to all other analog television stations,¹¹ and protects all DTV stations with allowances for *de minimis* interference.¹²

⁶ See DTV Second MO&O at ¶ 42; see also, Amendment Public Notice at 4.

⁷ See Engineering Report dated July 2000 and prepared by Venture Technologies Group, LLC, attached hereto as Exhibit A (the "Engineering Report").

⁸ See Engineering Report.

⁹ See DTV Second MO&O at ¶ 42; see also, Amendment Public Notice at 5.

¹⁰ See Amendment Public Notice at 5.

¹¹ See Engineering Report.

6. The Applicant hereby states its present intention to amend its pending application to specify operation as a DTV facility on Channel 34, if DTV Channel 34 is substituted for analog Channel 31, during the time period specified by the Commission in its allotment order, as required by the Commission.¹³

7. The Applicant submits that grant of this petition for rule making and the substitution of DTV Channel 34 for NTSC Channel 31 at Fort Worth, Texas, would serve the public interest by permitting the initiation of a new noncommercial television service serving Fort Worth, Texas, and surrounding communities, without causing interference to any other existing station or any DTV station allotment, authorization, application or petition for rule making. Therefore, the public interest would be served by the grant of this petition.

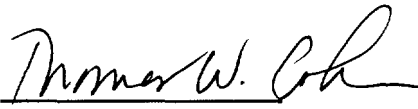
¹² See Engineering Report.

¹³ See DTV Second MO&O at ¶ 42; see also, Amendment Public Notice at 6.

8. Wherefore, the above premises being considered, the Applicant requests that the Commission grant this petition for rule making, amend Section 73.606(b), the Table of Allotments for television broadcast stations, to substitute DTV Channel 34 for analog Channel 31 at Fort Worth, Texas and authorize the Applicant to amend its pending application for Channel 31 at Fort Worth, Texas to specify operation as a DTV facility on Channel 31 without subjecting its application to competing applications.

Respectfully submitted,

Open21, Inc.

By: 
Thomas W. Cohen, Esq.
President

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July 17, 2000

CERTIFICATE OF SERVICE

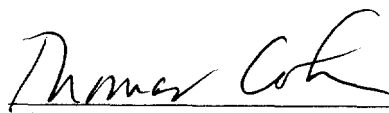
I, Thomas Cohen, hereby certify that on this 17th day of July, 2000, an original and four copies of the foregoing "Petition for Rulemaking" have been served by hand up on the following

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
TW-A325
Washington, DC 20554

And additional copies have been served by hand delivery or first class mail, postage prepaid, upon the following:

Clay Pendarvis, Chief
Television Branch
Federal Communications Commission
445 12th Street, S.W., Room 2-A662
Washington, D.C. 20554

John A. Karousos, Chief
Allocations Branch
Federal Communications Commission
445 12th Street, S.W., Room 3-A320
Washington, D.C. 20554



Thomas Cohen

**ENGINEERING REPORT
PETITION FOR RULE MAKING
TO AMEND SECTION 73.606(b)
OF THE FCC RULES BY SUBSTITUTING
UHF-TV DTV CHANNEL 34 FOR NTSC CHANNEL 31
AT FORT WORTH, TEXAS**

JULY 2000

This engineering report has been prepared on behalf of On-Line Public Educational Network for the 21st Century, Inc. ("Applicant"), an applicant for a new analog NTSC television station Channel 31 at Fort Worth, Texas, in support of its petition for rule making to amend Section 73.606(b) of the FCC Rules and Regulations to substitute DTV Channel 34 for the NTSC Channel 31 allotment for Fort Worth, Texas. The Applicant's Channel 31 application at Fort Worth, Texas (FCC File No. BPET-19960920WF) would cause interference to the co-channel DTV Channel 31 allotment for KXFT at Longview, Texas; KUVN, Channel 23 at Garland, Texas; and co-channel NTSC LPTV station, KUVN-LP, Channel 31 at Fort Worth, Texas, which has applied for Class A certification.¹ Moreover, there is not an alternative channel available for use as an alternative NTSC allotment, therefore, the Applicant is specifying Channel 34 at Fort Worth, Texas, as a DTV allotment. Figure 1 illustrates the signal overlap of these facilities. Table 1 shows the allocation situation for the Applicant's proposed facility on Channel 31.

Since widespread interference would otherwise occur, the Applicant proposes to amend the FCC Rule Section 73.606(b) as follows:

Section 73.606(b) Substitute DTV Channel 34 for NTSC Channel 31.

The reference coordinate for the proposed new allotment at Fort Worth, Texas, are as follows:

32 degrees, 35', 22" N. Lat., 96 degrees, 58', 10" W. Long.

The directional transmitting antenna and antenna orientation for the proposed new allotment at Fort Worth, Texas are as follows:

¹ See Engineering Report.

Andrew ALP24L3-HSWR-34 oriented toward 10 degrees true north.

The ERP for the proposed new allotment at Fort Worth, Texas would be:

150 kW

with a radiation center of 557meters AMSL for an antenna height above average terrain of :

357 meters.

Table 2 shows the allocation situation for the proposed DTV Channel 34 allotment.

A study of predicted interference caused by the Applicant's proposed DTV television service on Channel 34 at Fort Worth, Texas, using a version of the Longley-Rice program as described in OET Bulletin No. 69 (July 2, 1997) and the Public Notice "Additional Application Processing Guidelines for Digital Television (DTV)" (August 1998). The FCC's Fortran-77 code was modified by RadioSoft for use its software program ComStudy 2.2 for operation on a Windows NT platform. Comparison of service/interference areas and populations indicates that this model closely matches the FCC's evaluation program. Best efforts have been made to use data and calculations identical to the FCC's program. Any slight differences are attributable to compiler, operating system and/or processor characteristics. The effect of any variance in calculated population values versus the FCC's program is minimized when analyzing a given model's results, e.g., new interference equals total interference less baseline interference. *The effect is further reduced for ratios of calculated population values, e.g., incremental population affected as a percent of total population served.* The model employs the Longley-Rice propagation

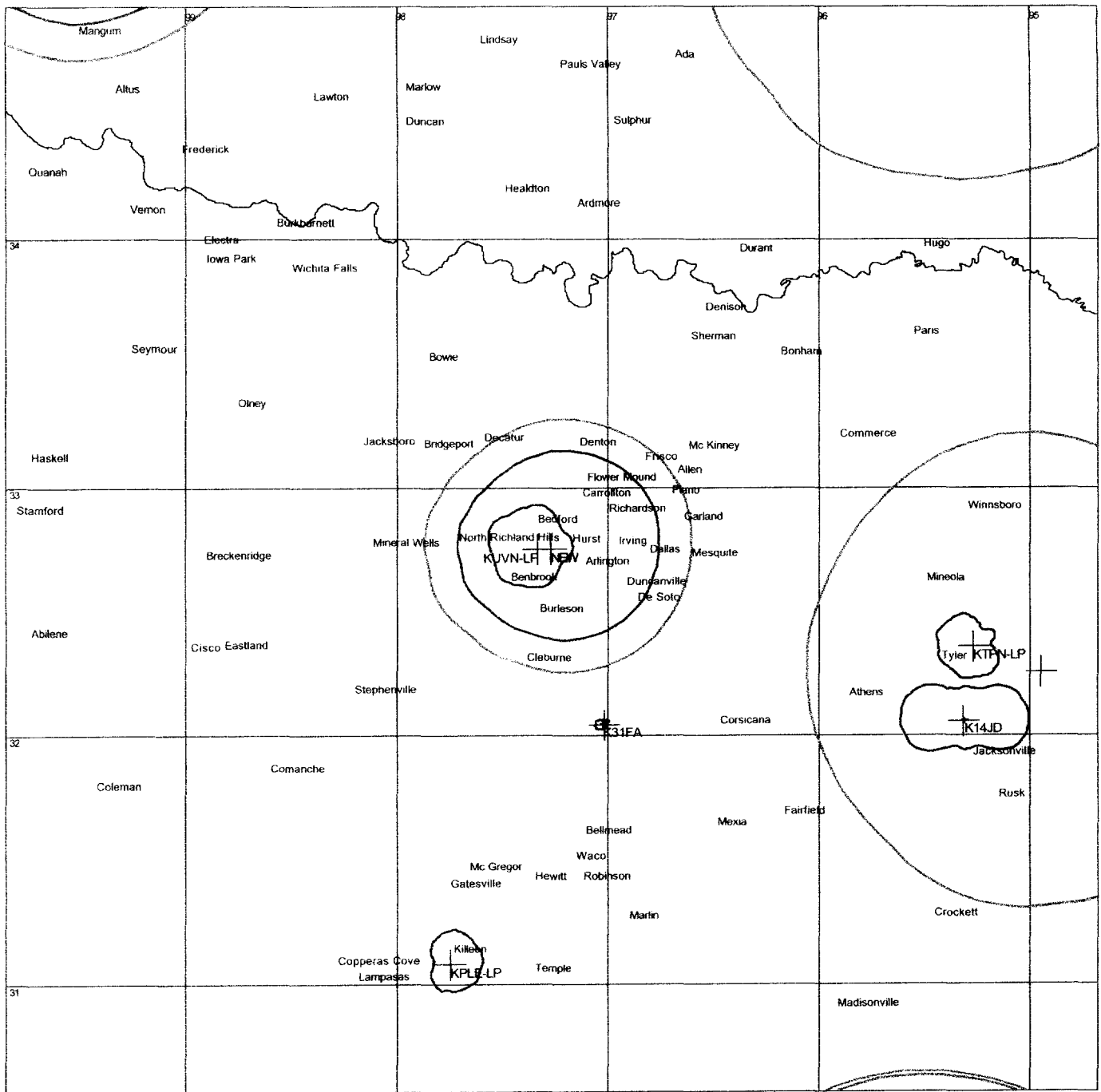
methodology and evaluates in grid cells of approximately 4 square kilometers using 3-second terrain data sampled approximately every 0.1 km at one degree azimuth intervals with 1990 census centroids.

The baseline for the proposed new TV facility: No station on Channel 31.

Proposed Change: Andrew ALP24L3-HSWR-34 oriented toward 10 degrees true north, Channel 34, 150 kW ERP, 357 m HAAT, 32 degrees, 35', 22" N. Lat., 96 degrees, 58', 10" W. Long.

The results are depicted in Table 2 and comply with Commission policy and rules.

FIGURE 1 OPEN21 FORT WORTH TX CH 31 CO CHANNEL STATIONS



Copyright (c) 1996 RadioSoft

Scale 1:2531000

— TV Grade 'A' — TV Grade 'B' — State Borders — Lat-Lon Grids

100 Km

TABLE 1: NTSC AND DTV ALLOCATION STUDY FOR CHANNEL 31 AT FORT WORTH, TEXAS

ComStudy 2.2 RadioSoft

Callsign	City	Class	ERP	Sep Type	Status	Dist	Prot	Clearance	D/U	Rx Gain	Rx F/B	Zone	Band	Ch#	Adj	Matrix	Svc Contour	Svc Strength	Int Contour	Int Strength	Matrix Analy	Old Pop%	New Pop%	Total Pop	Old Pop	New Pop
KBCA	ELK CITY	Analog	5000.000	D/M	Cleared	398.4	32	10.4	28	0.0	6.0	2	UHF	31 Z	Co	LR	F(50.50)	64				25%	0.0%	78101	78101	78101
KCTF	WACO	Analog	79.400	D/M	Cleared	138.0	32	10.4	-34	0.0	6.0	2	UHF	34 +	T+3	LR	F(50.50)	64				3.0%	0.0%	200040	200040	200040
KCTF	WACO	Analog	1230.000	D/M	Cleared	158.6	32	10.4	-34	0.0	6.0	2	UHF	34 +	T+3	LR	F(50.50)	64				0.0%	0.0%	482584	482584	482584
KDAF	DALLAS	Analog	5000.000	D/M	Cleared	33.3	32	10.4	28	0.0	6.0	2	UHF	33 +	T+2	LR	F(50.50)	64				45%	0.0%	4035122	4035122	4035563
KDAF	DALLAS	Analog	5000.000	D/M	Cleared	37.0	32	6.9	28	0.0	6.0	2	UHF	33 +	T+2	LR	F(50.50)	64				45%	0.0%	4042406	4042406	4039658
KDAF-DT	DALLAS	DTV	218.000	D/M	Cleared	33.3			-48	10.0	14.0	2	UHF	32	A+1	LR	F(50.90)	41				0.0%	0.0%	4036149	4036149	4036149
KDAF-DT	DALLAS	DTV	218.000	D/M	Cleared	33.3			-48	10.0	14.0	2	UHF	32	A+1	LR	F(50.90)	41				0.0%	0.0%	4036149	4036149	4036149
KDAF-DT	DALLAS	DTV	360.000	D/M	Cleared	37.0			-48	10.0	14.0	2	UHF	32	A+1	LR	F(50.90)	41				0.0%	0.0%	4115044	4115044	4115044
KDFITV	DALLAS	Analog	5000.000	D/M	Cleared	33.3	32	10.4	23	0.0	0.0	2	UHF	27 -	T-4	LR	F(50.60)	64				0.0%	0.0%	4027724	4027724	4021667
KDFITV	DALLAS	Analog	5000.000	D/M	Cleared	33.2	32	10.4	23	0.0	0.0	2	UHF	27 -	T-4	LR	F(50.50)	64				0.0%	0.0%	4027634	4027634	4021667
KFXK-DT	LONGVIEW	DTV	1000.000	D/M	Cleared	224.5			2	10.0	14.0	2	UHF	31	Co	LR	F(50.90)	41				0.0%	0.0%	721430	721430	717723
KHOU-DT	HOUSTON	DTV	759.000	D/M	Cleared	391.7	245	146.7	2	10.0	14.0	3	UHF	31	Co	LR	F(50.90)	41				0.0%	0.0%	3690846	3690846	3690826
KHOU-DT	HOUSTON	DTV	786.000	D/M	Cleared	391.7	245	146.7	2	10.0	14.0	3	UHF	31	Co	LR	F(50.90)	41				0.0%	0.0%	3695471	3695471	3695471
KHOU-DT	HOUSTON	DTV	785.000	D/M	Cleared	391.7	245	146.7	2	10.0	14.0	3	UHF	31	Co	LR	F(50.90)	41				0.0%	0.0%	3695608	3695608	3695608
KMPX	DECATUR	Analog	3630.000	D/M	Cleared	35.1	32	10.4	26	0.0	6.0	2	UHF	29 Z	T-2	LR	F(50.60)	64				0.0%	0.0%	3726072	3726072	3708361
KMPX-DT	DECATUR	DTV	99.000	D/M	Cleared	35.1			-48	10.0	14.0	2	UHF	30	A-1	LR	F(50.90)	41				0.0%	0.0%	3729884	3729884	3723947
KMPX-DT	DECATUR	DTV	99.000	D/M	Cleared	35.1			-48	10.0	14.0	2	UHF	30	A-1	LR	F(50.90)	41				0.0%	0.0%	3729884	3729884	3723947
KNCT	BELTON	Analog	576.000	D	Cleared	198.6	120	78.5	-	-	-	2	UHF	46 +	T+15	LR						N/C	N/C	N/C	N/C	N/C
KOET-DT	EUFULA	DTV	1000.000	D/M	Cleared	323.5	245	78.5	2	10.0	14.0	2	UHF	31	Co	LR	F(50.90)	41				0.0%	0.0%	595767	595767	595493
KOET-DT	EUFULA	DTV	1000.000	D/M	Cleared	323.5	245	78.5	2	10.0	14.0	2	UHF	31	Co	LR	F(50.90)	41				0.0%	0.0%	602224	602224	602080
KUVN	GARLAND	Analog	5000.000	D/M	Cleared	57.0	32	10.4	-32	0.0	6.0	2	UHF	23 Z	T-8	LR	F(50.50)	64				0.0%	0.0%	3626174	3626174	3575217
KXTX-TV	DALLAS	Analog	5000.000	D/M	Cleared	33.6	32	10.4	-41	0.0	6.0	2	UHF	39 Z	T+8	LR	F(50.50)	64				0.0%	0.0%	4098315	4098315	4098315
NEW	FORT WORTH	Analog	501.000	D/M		0.0	32	10.4	45	0.0	6.0	2	UHF	31 +	Co	LR	F(50.50)	64						3480096	3480096	88159

TABLE 2: NTSC AND DTV UHF TV ALLOCATION STUDY FOR DTV CHANNEL 34 AT FORT WORTH, TEXAS

ComStudy 2.2 RadioSoft

Callsign	City	Class	ERP	Sep Type	Status	Dist	Prot	Clearance	DU	Rx Gain	Rx F/B	Zone	Band	Ch#	Adj	Matrix	Svc Contour	Svc Strength	Int Contour	Int Strength	Matrix Analy	Old Pop%	New Pop%	Total Pop	Old Pop	New Pop
KCTF	WACO	Analog	79.400	D/M	Closed	121.3			34	0.0	6.0	2	UHF	34+	Co	LR	F(50.50)	64				0.0%	0.0%	200040	200040	198801
KCTF	WACO	Analog	1230.000	D/M	Closed	145.0			34	0.0	8.0	2	UHF	34+	Co	LR	F(50.50)	64				0.0%	0.0%	482584	482584	482093
KDAF	DALLAS	Analog	5000.000	D/M	Closed	0.0			-14	0.0	6.0	2	UHF	33-	A-1	LR	F(50.50)	64				0.0%	0.0%	4035122	4035122	4035122
KDAF	DALLAS	Analog	5000.000	D/M	Closed	6.2			-14	0.0	6.0	2	UHF	33-	A-1	LR	F(50.50)	64				0.0%	0.0%	4042406	4042406	4042406
KDFITV	DALLAS	Analog	5000.000	D/M	Closed	0.0			-34	0.0	6.0	2	UHF	27-	T-7	LR	F(50.50)	64				0.0%	0.0%	4027724	4027724	4027724
KDFITV	DALLAS	Analog	5000.000	D/M	Closed	0.1			-34	0.0	6.0	2	UHF	27-	T-7	LR	F(50.50)	64				0.0%	0.0%	4027634	4027634	4027634
KDFW-DT	DALLAS	DTV	857.000	D/M	Closed	0.8			-26	10.0	14.0	2	UHF	35	A+1	LR	F(50.90)	41				0.0%	0.0%	4177956	4177956	4177956
KDFW-DT	DALLAS	DTV	1000.000	D/M	Closed	0.9			-26	10.0	14.0	2	UHF	35	A+1	LR	F(50.90)	41				0.0%	0.0%	4246586	4246586	4246586
KDFW-DT	DALLAS	DTV	1000.000	D/M	Closed	0.8			-26	10.0	14.0	2	UHF	35	A+1	LR	F(50.90)	41				0.0%	0.0%	4259851	4259851	4259851
KITU	BEAUMONT	Analog	1170.000	D/M	Closed	395.4	245	35.0	34	0.0	6.0	3	UHF	34-	Co	LR	F(50.50)	64				0.0%	0.0%	537505	537505	537505
KMSS-DT	SHREVEPORT	DTV	202.000	D/M	Closed	285.0	224	60.0	15	10.0	14.0	2	UHF	34	Co	LR	F(50.90)	41				0.0%	0.0%	828075	828075	825481
KMSS-DT	SHREVEPORT	DTV	202.000	D/M	Closed	285.0	224	60.0	15	10.0	14.0	2	UHF	34	Co	LR	F(50.90)	41				0.0%	0.0%	833396	833396	830169
KMSS-DT	SHREVEPORT	DTV	1000.000	D/M	Closed	285.1	224	60.1	15	10.0	14.0	2	UHF	34	Co	LR	F(50.90)	41				0.0%	0.0%	956883	956883	954529
KOCB	OKLAHOMA	Analog	1170.000	D/M	Closed	332.9	245	60.0	34	0.0	6.0	2	UHF	34-	Co	LR	F(50.50)	64				0.0%	0.0%	1074618	1074618	1074618
KOCB	OKLAHOMA	Analog	5000.000	D/M	Closed	332.8	245	60.0	34	0.0	6.0	2	UHF	34-	Co	LR	F(50.50)	64				0.0%	0.0%	1151174	1151174	1151174
KVCT-DT	VICTORIA	DTV	50.000	D/M	Closed	422.5	224	60.0	15	10.0	14.0	3	UHF	34	Co	LR	F(50.90)	41				0.0%	0.0%	138959	138959	138959
KVCT-DT	VICTORIA	DTV	50.000	D/M	Closed	422.5	224	60.0	15	10.0	14.0	3	UHF	34	Co	LR	F(50.90)	41				0.0%	0.0%	138571	138571	138571
KVCT-DT	VICTORIA	DTV	1000.000	D/M	Closed	422.7	224	60.1	15	10.0	14.0	3	UHF	34	Co	LR	F(50.90)	41				0.0%	0.0%	156168	156168	156168
NEW	FORT WORTH	Analog	501.000	D/M	Closed	33.3			-33	0.0	6.0	2	UHF	31+	T-3	LR	F(50.50)	64				0.0%	0.0%	3480098	3480098	3474942
NEW	SHERMAN	Analog	5000.000	D/M	Closed	107.6	37	10.0	-33	0.0	0.0	2	UHF	20-	T-14	LR	F(50.50)	64				0.0%	0.0%	3712004	3712004	3694378
NEW	TEXARKANA	Analog	275.000	D/M	Closed	285.1	245	60.1	34	0.0	6.0	2	UHF	34 Z	Co	LR	F(50.50)	64				0.0%	0.0%	148322	148322	148322